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ALEXANDER L. STEVAS,
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82-1669
NO.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

JERRY WRIGHT,

PETITIONER,

v.

JOHN C. STATLER
DISTRICT JUDGE
BACA COUNTY, COLORADO

RESPONDANT,

AND

v.

THELMA GOODNIGHT
PUBLIC TRUSTEE
BACA COUNTY, COLORADO

ADDITIONAL
RESPONDANT

PETITION FOR WRIT OF PROHIBITION TO
THE DISTRICT COURT OF BACA COUNTY,
COLORADO

JERRY WRIGHT, PETITIONER
BOX 97
SPRINGFIELD, COLO. 81073

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

Jerry Wright

Petitioner,

vs.

John C. Statler

District Judge

Baca County, Colorado

Respondent,

And

vs.

Thelma Goodnight

Public Trustee

Baca County, Colorado

Additional

Respondent

PETITION FOR A WRIT OF PROHIBITION TO THE DISTRICT COURT OF BACA COUNTY, COLORADO

QUESTIONS PRESENTED

Whether County of Baca, State of Colorado has jurisdiction in commercial maritime powers of limited liability for the payment of debts.

PARTIES TO THE PROCEEDING

Petitioner

Jerry Wright,

Respondent

John C. Statler

District Judge

Baca County, Colorado,

And Additional

Respondent

Thelma Goodnight

Public Trustee

Baca County, Colorado

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STATEMENT OF JURISDICTION

The District Court of Baca County, Colorado issued order on December 13, 1982 authorizing sale. See exhibit "A". Property was then sold on January 4, 1982 by Public Trustee of the County of Baca. There is no written order by public trustee.

The jurisdiction of this court is involved under Title 28, United States Code, Section 1651 (a).

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution,
Article III, Section 2,
(2) . . .
Those in which a state shall be a party the Supreme Court shall have original jurisdiction.

STATEMENT OF THE CASE

On December 13, 1982, the District

Court of Baca County, Colorado ruled in Maritime Limited Liability for the payment of debt when it ordered the sale of the petitioner, Jerry Wright, to be conducted on January 4, 1983.

On January 4, 1983, the sale of property belonging to Petitioner, Jerry Wright, was conducted by County Treasurer, acting as Public Trustee, Thelma Goodnight. A redemption period of six months was allowed to Petitioner, Jerry Wright, and on or about July 4, 1983, a Public Trustees Deed can be issued to highest bidder recognized by respondent Thelma Goodnight, The Federal Land Bank Of Wichita, acting through The Federal Land Bank Association Of Lamar, Colorado.

REASON FOR GRANTING WRIT

The County of Baca, Colorado through

its acts of selling property, has usurped the commercial powers of Article III, Section 2 of the Federal Constitution, which said commercial powers of maritime limited liability for the payment of debt are reserved to the federal government and the federal district courts.

LEGAL CLAIMS

The three elements necessary for prohibition are present in the instant case.

1. That the persons it is directed against have exercised commercial maritime limited liability for the payment of debt powers.
2. That the exercise of such limited liability power by said persons is unauthorized by law.
3. That it will result in in-

jury which there is no other adequate remedy.

WHEREFORE, petitioner requires the issuance of a Writ of Prohibition by this court directed to respondent judge and trustee directing said judge and trustee to refrain and desist from any further proceedings in said action 82 CV 59 and requiring said action be thence dismissed and for such other and further relief as to this court seems proper and just.

Jerry Wright

Jerry Wright, petitioner

Box 97

Springfield, Colo. 81073

MEMORANDUM IN SUPPORT OF REASON FOR GRANTING WRIT

The issue framed by petitioner here is whether the County of Baca, State of Colorado has jurisdiction in commercial powers of maritime limited liability for the payment of debts.

Under the Common Law there is no limited liability for the payment of debts. New Jersey Steam Navigation v. The Merchants Bank 6 Howard 342.

As the Constitution extends the judicial power of the United States to all cases of Admiralty and Maritime jurisdiction is held to be exclusive, the power of legislation on the national legislature and not in the state legislature, Butler v. Boston and Savannah Steamship. Co. 130 US 527.

The entire admiralty power of the

country is lodged in the federal judiciary and Congress intended by the ninth section to invest the district courts with this power as courts of original jurisdiction. The exclusive jurisdiction in admiralty cases was conferred on the national government as closely connected with the grant of the commercial power. New Jersey Steam Navigation v. The Merchants Bank (supra).

It is the duty of the federal district courts to expand on the subject of the commercial power of maritime limited liability for the payment of debts and not the state courts. Butler v. Boston and Savannah Steamship Co. (supra).

The powers of Commercial Limited Liability for the payment of debt was granted to the federal government under

the federal constitution and codefied at 46 USC but nowhere is that power granted to the states.

Jerry Wright

JERRY WRIGHT, petitioner

VERIFICATION

JERRY WRIGHT having been duly sworn, hereby depose and say that he has read the above Petition for Writ of Prohibition and state the facts are true and correct to the best of his knowledge, information, and belief.

Jerry Wright

JERRY WRIGHT

UNITED STATES OF AMERICA)
STATE OF COLORADO) SS.
COUNTY OF BACA)

AFFIDAVIT

JERRY WRIGHT being duly sworn according to law deposes and says:

1. I am Jerry Wright, the person named as petitioner.

2. That I am a merchant and trader at Law on the cash basis and has no insurable interest in a joint maritime adventure for profit under limited liability for the payment of debt.

3. That the above is true and correct to the best of my knowledge and belief.

Jerry Wright
JERRY WRIGHT

Sworn to and subscribed before me this 7th day of April, 1983.

Charlene J. Reynolds
NOTARY PUBLIC

My Commission Expires: Dec. 18 1985

EXHIBIT "A"

DISTRICT COURT, COUNTY OF BACA, STATE OF COLORADO

Case No. 82 CV 59

ORDER AUTHORIZING SALE

IN THE MATTER OF THE APPLICATION OF THE FEDERAL LAND BANK OF WICHITA, WICHITA, KANSAS FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE COUNTY OF BACA, STATE OF COLORADO, TO SELL CERTAIN REAL PROPERTY UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

THE COURT FINDS that there is a reasonable probability that the default or other circumstance alleged in the motion to justify invocation of the power of sale has occurred, that an order authorizing sale is otherwise proper under the Soldiers' and Sailors' Civil

Relief Act of 1940, as amended, that the provisions of C.R.C.P. 120 have been complied with, and that the Motion should be granted.

IT IS ORDERED that the Public Trustee, pursuant to the provisions of the deed of trust recorded in Book 437, Page 464-465. Reception No. 327335, of the records of Baca County, Colorado, is authorized to sell the following real property in Baca County, Colorado:

TOWHSHIP 33 SOUTH, RANGE 46 WEST OF THE 6th P.M.

Section 24: S½

Excepting the following described parcel of land: A tract of land in the Southeast Quarter (SE¼) of Section 24, Township 33 South, Range 46 West of the 6th P.M. in Baca County, Colorado, more particularly described as follows: Beginning at the Southeast Corner of Section 24, Township 33

South, Range 46 West of the 6th P.M.; thence North 50.00 feet to a point being on the North Right-of-Way Line of a county road; thence North 89°59' 00" West 1021.50 feet to the True Point of Beginning of Said Tract, this line being parallel to the South Section Line of Section 24; thence North 00°01'00" East 100.00 feet to a point; thence North 89°59'00" West 435.60 feet to a point; thence South 00°01'00" West 100.00 feet to a point; thence South 89°59'00" East 435.60 feet to the True Point of Beginning of Said Tract.

Together with all wells, pumps, motors, equipment, and sprinkler systems used for the irrigation of the land described above, including, but not limited to the following and all future additions to, replacements of or substitutions for any of the fol-

lowing:

One Gifford-Hill ten-tower electric-drive Sprinkler Model #360, Serial #74744.

IT IS FURTHER ORDERED that a return of such sale be made to this Court for its approval.

Dated December 13, 1982.

John C. Statler

District Judge

DISTRICT COURT, COUNTY OF BACA,
STATE OF COLORADO
Case No. 82 CV 59

RETURN AND ORDER APPROVING SALE

IN THE MATTER OF THE APPLICATION OF THE FEDERAL LAND BANK OF WICHITA, WICHITA, KANSAS FOR AN ORDER AUTHORIZING THE PUBLIC TRUSTEE OF THE COUNTY OF BACA, STATE OF COLORADO, TO SELL CERTAIN REAL PROPERTY UNDER A POWER OF SALE CONTAINED IN A DEED OF TRUST.

The real property described in the Order herein was sold on January 4, 1983, in conformity with the Order Authorizing Sale entered in this proceeding, to The Federal Land Bank of Wichita, Wichita, Kansas, for the sum of $96,136.12.

WHEREFORE, applicant makes this return of sale and requests approval.

Dated January 7, 1983.

SCHMIDT AND SCHMIDT

By: Mark H. Schmidt #8788
Attorney at Law
716 Main Street
Springfield, Colo. 81073

ORDER

The Court finds that the matters stated in the foregoing return are true.

IT IS ORDERED that said sale and return of sale are approved.

Dated January 10, 1983.

John C. Statler

District Judge